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VIA ECF

Hon. Valerie E. Caproni
 United States District Court
 Southern District of New York
 Thurgood Marshall U.S. Courthouse
 40 Foley Square, Room 443
 New York, New York 10007

Re: *Josefina S., et al. v. The City of New York, No. 17-CV-07661 (AJN)*

Dear Judge Caproni:

We represent Plaintiffs in the above-referenced and write jointly with counsel for Defendant.

As Your Honor is aware, the Court granted preliminary approval to the parties' class-wide settlement agreement on September 22, 2023, and directed that Plaintiffs submit briefing in support of final approval by January 8, 2024. The matter is set for a fairness hearing on January 18, 2024, with any supplemental briefing to be submitted by January 28, 2024.

We write to apprise Your Honor of the parties' ongoing negotiations regarding an attorneys' fee award in this matter. The Stipulation of Settlement provides that: "The Parties shall attempt to negotiate an agreed proposed award to Plaintiffs' of attorneys' fees and costs pursuant to 42 U.S.C. § 12205. If the Parties have not agreed to such a proposed award by the date of the Fairness Hearing, Plaintiffs' Counsel shall make any request for fees pursuant to 42 U.S.C. § 12205 and Federal Rule of Civil Procedure 23(h) within ninety (90) days of the Effective Date. Defendant does not contest Plaintiffs' entitlement to fees under 42 U.S.C. § 12205, but reserves the right to oppose the amount of fees sought in any such application." The Effective Date is defined as "the date of filing of an order or judgment approving this Stipulation becom[es] final, which is in turn defined as "the latter of (i) the thirty-first day after such order or judgment is entered, if no notice of appeal is timely filed; or (ii) the first day on which the order or judgment is not subject to further judicial review or appeal, if any such notice of appeal is timely filed."

Plaintiffs have made an initial proposal for resolving their claim for attorneys' fees. Defendant has been considering that proposal and intends to make a counter-proposal imminently. The parties expect that they will be able to resolve the attorneys' fee claim in advance of the January 18 fairness hearing.

However, to provide clarity to the parties in advance of the holidays about when an application for fees would be due in the unlikely event that we are unable to reach a resolution in advance of the fairness hearing, we respectfully request that the Court enter an order on the docket at the Court's earliest convenience directing that Plaintiffs would be required to submit any application for fees within ninety (90) days of the Effective Date, consistent with the Stipulation of Settlement, or on any other schedule the Court would prefer.

Respectfully submitted,

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Application GRANTED. Pursuant to the parties' Stipulation of Settlement, Dkt. 174-1, the deadline for Plaintiffs' counsel to file a motion for attorneys' fees and costs is **ninety days after the Effective Date**, as defined in paragraph 121 of the Stipulation of Settlement.

SO ORDERED.



12/21/2023

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE